

Appl. No. 10/071,927
Amdt. Dated May 29, 2003
Reply to Office Action of October 2, 2002

REMARKS/ARGUMENTS

Favorable reconsideration of this application is requested in view of the amendments made above and the remarks which follow.

In the parent application, claims 1, 19 and 20 were rejected as anticipated by Franklin (2,396,842) under 35 USC 102(b). Inasmuch as they were not rejected in view of the prior art, it is presumed that the remaining claims are considered to patentably distinguish over the prior art. Claim 1 has been amended to incorporate the presumably allowable subject matter of claim 2, and claims 19 and 20 have been replaced with new claims 21, 22 and 23, which are directed to subject matter also clearly not shown in the prior art.

Claims 1-20 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of USP 6,212,686 and claims 1-17 of USP 6,081,926. A terminal disclaimer under 37 CFR 1.321(c) is submitted herewith to remove this ground of rejection.

Claim 1 as now amended, and therefore claims 3-18 dependent either directly or indirectly therefrom, now require the weave of the neckband to be on a bias. This structure and its attendant function are not disclosed or suggested in the prior art.

Claim 21 requires a plurality of closely spaced small holes to be formed throughout the neckband, and claim 22 additionally requires the neckband to comprise an inner layer and an outer layer, with the holes formed in the inner layer. These structures and their attendant function are not disclosed or suggested in the prior art. The patent to Franklin (2,396,842) discloses a neckband in which three narrow openings in the neckband are initially stitched closed, but one or more of these openings may be slit open by the wearer to adjust the length of the neckband. The openings are formed through both layers of the neckband. There is no suggestion of the plurality of small closely spaced holes formed throughout the neckband, as

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required in claim 21, or of forming the holes only in the inner layer of the neckband as further required in claim 22.

None of the art of record suggests the "kinked" threads of claim 23, which imparts to them a resilient, stretchable property, thereby giving the neckband a stretchable quality.

In view of the amendments to the claims, the filing of a terminal disclaimer, and the comments above, it is submitted that the claims in this application define patentable and allowable subject matter, and a favorable action is requested.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Dennis H. Lambert", written over a horizontal line.

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